

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided.

Upon entry of the above amendment, claims 5 and 6 will have been amended; and claims 3, 4, 14-19, and 27-34 will have been canceled. Accordingly Claims 1, 2, 5-13, 20-26, 35, and 36 are currently pending. Claims 1, 2, 7-13, and 20-26 have been withdrawn from consideration by the Examiner as being directed to a nonelected invention. Applicants respectfully request reconsideration of the outstanding rejections and allowance of claims 5, 6, 35, and 36 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has rejected claims 3-6, 14, 15, 27, 28, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by SAADAT et al. (U.S. 2004/0138525).

Claims 3, 4, 14, 15, 27, 28, 33, and 34 have been canceled. Accordingly, the rejection of claims 3, 4, 14, 15, 27, 28, 33, and 34 under 35 U.S.C. § 103(a) over SAADAT et al. is now moot.

Although Applicants do not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicants have amended independent claims 5 and 6 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicants note that the SAADAT et al. publication fails to show each and every element recited in the amended claims. In particular, independent claim 5, as amended, sets forth an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and "a plurality of circumferential apertures through which surgical instruments are inserted for performing a

surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through a side face of said flexible tubular body ~~in an area including~~ at said distal end face ~~and a side face~~ of said flexible tubular body”. Independent claim 6, as amended, sets forth an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through a side face of said flexible tubular body ~~in an area including~~ at said distal end face ~~and a side face~~ of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device.

Applicants’ claimed invention provides an internal treatment apparatus and system as shown in Figures 7-14. In particular, the instant invention includes a flexible tubular member having a distal end portion 111, and a deflectable portion 112 provided at a rear end face 111a of the distal end portion 111. The flexible tubular member is introduced into a patient from the distal end portion 111. The circumferential opening portion 130 passes through the apparatus body 10a from a side face 112b thereof to a proximal end face 10c of the apparatus body 10a, as shown in figure 14. The circumferential opening portion 130 is open on a side surface on the distal end of the internal treatment apparatus, and is open on the end surface of the proximal end of the internal treatment apparatus. The circumferential opening portion 130 includes circular apertures 131, 132, through which surgical instruments 242 and 241 are passed. Thus, the apertures 131, 132 are open on the side surface at the distal end face of the internal treatment apparatus.

The SAADAT et al. device includes a flexible tubular body 10 having a distal end 14 and a proximal end 12. The flexible tubular body 10 includes a center opening 24 at the distal end thereof, and a plurality of circumferential apertures 26 at the proximal end of the tubular body 10. Figure 25A shows the tool arms 30 projecting from the *circumferential apertures 26 located at the proximal end 12 of the tubular body*. Figures 25A and 25B show the proximal end 12 of the tubular body 10. A distal end 34 of the tool arm 30 projects from the distal end face at the distal end 14 of the tubular body 10. Thus, the tool arms 30 extend through the apertures 26 at the proximal end 12 of the tubular body 10. Therefore, the apertures 26 of the SAADAT et al. device are located *at the proximal end of the tubular body*. The apertures 26 of the SAADAT et al. device are *not* located *at the distal end of the tubular body*, as in Applicants' claimed invention.

In the Advisory Action dated September 23, 2010, the Examiner has taken the position that SAADAT et al. discloses apertures extending through the distal end face (figure 6) and through a side face (figure 2). However, as shown in figures 2 and 6, SAADAT et al. includes the apertures 26 extending through the side face at the proximal end of the tube (figure 2), and separate and different apertures that extend through the distal end face (figure 6). Thus, in other words, the apertures that extend through the side face are not the same apertures that extend through the distal end face. The SAADAT et al. device does not include apertures that extend through the side face on the distal end of the tube, as in Applicants' claimed invention.

By the present amendment, Applicants' claimed invention provides that *the apertures extend through a side face of the flexible tubular body at the distal end face of the tubular body*. Thus, the location of the side face at the distal end of the tubular body is claimed, and the claim language precludes the side face of the SAADAT et al. device as reading on the invention.

Thus, since the SAADAT et al. reference discloses a tubular body with a tool arm extending through a distal end face aperture and a tool arm extending through a side face of the proximal end of the tubular body, the SAADAT et al. reference does not disclose a tubular body with the tool arm extending through a side face of the tubular body at the distal end face of the tubular body, as claimed.

Therefore, the SAADAT et al. reference does not show an internal treatment apparatus including, inter alia, “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through a side face of said flexible tubular body ~~in an area including~~ at said distal end face ~~and a side face of~~ said flexible tubular body”, as set forth in independent claims 5 and 6, as amended.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 5 and 6 under 35 U.S.C. § 102(e) over SAADAT et al. is improper and withdrawal thereof is respectfully requested.

Applicants submit that dependent claims 35 and 36, which are at least patentable due to their dependency from claims 5 and 6, respectively, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features. Accordingly, claims 35 and 36 are each separately patentable for these additional reasons.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 5, 6, 35, and 36.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the proposed response is proper for entry since it merely cancels claims and clarifies the language regarding the location of the apertures on a side face on the distal end of the tubular member, which is an issue about which Applicants have already submitted arguments, and it is also submitted that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 5, 6, 35 and 36. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

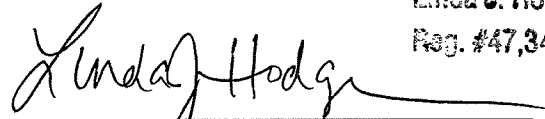
Accordingly, consideration of the present amendment, reconsideration of the outstanding Final Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

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